

## ***State Administration Policy***

Approved: 

Date: May 2012

### **I. Policy**

There are certain state administrative practices that shall be carried out in all Probation districts. These practices will contribute to the fair distribution of resources, the safeguarding of Probation System assets, the delivery of risk-reducing investigations and supervision, and the safety of the public.

### **II. Purpose**

To provide consistency of administrative practices among all Probation districts.

### **III. Reference**

[Neb. Rev. Stat. § 29-2252 \(5\)](#)

[Neb. Rev. Stat. § 29-2252 \(11\)](#)

[Neb. Rev. Stat. § 29-2261 \(6\)](#)

[Neb. Rev. Stat. § 81-1025](#)

[State of Nebraska Department of Administrative Services Transportation Services Bureau Policies and Procedures Manual](#)

### **IV. Procedure**

#### **A. Confidentiality**

All court and probation documents and materials shall be handled and maintained in accordance with the Adult Confidential Record Information Policy and the Juvenile Confidential Record Information and Sealed Records Policy.

#### **B. District Performance Review**

All Probation districts shall participate in a formal district performance review. The district performance review shall be conducted by the Administration & Operations division of the Administrative Office of Probation.

#### **C. Nebraska Probation Information System**

All employees of the Nebraska Probation System will utilize the approved software system(s) deemed necessary for purposes of best practice in case management. The information contained within the Nebraska Probation Information System shall be kept strictly confidential.

#### **D. Computer Usage**

All employees of the Nebraska Probation System will be required to case manage

electronically and utilize a computer for this purpose. All computer usage is deemed property of the state or county in which it resides. The Supreme Court has adopted the State of Nebraska Acceptable Use Policy. All Chief Probation Officers shall be responsible for all employees within their district to review this policy. All Chief Probation Officers shall also be responsible for ensuring this policy is reviewed and employees are in compliance with all county requirements for equipment in the Probation office's possession.

E. Organizational Structure

The Nebraska Probation System is a division of the Nebraska Supreme Court and therefore is under the judicial branch of government. The Supreme Court appoints the Probation Administrator ([Neb. Rev. Stat. § 29-2251](#)) who creates minimum qualifications for employment for Probation personnel ([Neb. Rev. Stat. § 29-2252](#)).

F. Grants

All Probation divisions and districts shall initially seek approval from the Probation Administrator before pursuing any state or federal grant. Final authority to pursue any state or federal grant lies with the Nebraska Supreme Court.

G. Subpoenas

Information contained within presentence or predisposition investigations and/or information contained within a probation officer's supervision file, relative to a probationer's performance on probation, shall be treated as confidential and protected from public disclosure through subpoena, unless the requested information is considered public information or pertains to a juvenile transfer request, disposition/sentencing, or a probation revocation proceeding.

H. Firearms Notification

Individuals shall receive notification regarding limitations of their right to receive, possess, or transport any firearm.

I. Search and Seizure

Probation officers shall comply with the probationer's court order when completing searches of the probationer's person, residence, vehicle, and/or personal property. Probation officer may complete a search when contraband is observed in plain view of the probation officer and/or when a probationer is being detained and/or transported in custody. Any contraband items confiscated shall be processed in such a manner as to preserve the chain of evidence.

J. General Communication Usage

Nebraska Probation System employees assigned Community-Based Intervention (CBI), Juvenile Community-Based Intervention (JCBI), or Juvenile Intake duties, and/or those employees assigned to specifically designated programs that necessitate the continuous monitoring of probationers or that require immediate employee response to conform with Evidenced-Based Practices (EBP) shall be provided a cellular phone by Probation's Field

Services and Operations Division.

K. Electronic Monitoring

1. Electronic Monitoring for Adult Supervision

- a) Only those individuals classified at or above Community Based intervention (CBI) are eligible for electronic monitoring.
- b) The monitoring time period cannot be less than thirty (30) days or more than one hundred eighty (180) days.
- c) When considering placement of a probationer or post-release supervision probationer on EM as part of an administrative sanction, the following criteria must be met:

The Probationer or post-release probationer:

- (1) Has not been amenable to other, less-restrictive forms of sanctioning.
- (2) Has shown significant incidences of unaccountable time.

2. Electronic Monitoring for Juvenile Supervision

- a) Requires a period of stability while case management programming is adjusted or established.
- b) Options to add structure and support have been ineffective or are not available.
- c) At least one of the following conditions exists:
  - (1) Poses a community safety risk.
  - (2) Poses a flight risk.
  - (3) Has shown significant incidences of unaccountable time.

L. Substance Abuse Testing

By identifying the probationer's criminogenic needs and matching the probationer's risk level in an individualized case plan, substance abuse testing of probationers, combined with appropriate graduated sanctions and treatment, serve as an effective means of suppressing substance usage. It also enhances probationer accountability, reduced recidivism, and ensures appropriate referrals for substance abuse evaluations and levels of care.

M. Retention Schedule (set aside/sealed)

The retention schedule shall follow Record Management's Schedule 74 and also the

Supreme Court Policy.

N. DNA

1. Probation officers shall recommend in the Presentence Investigation (PSI), DNA testing for required offenses. If a probationer is sentenced to a direct probation and DNA testing for a required offense has not been placed in the probation order, the Probation office shall request an amended probation order. Upon the requirement for DNA testing, the probationer shall be required to report to a prison, jail, or other detention facility as specified, to undergo blood or saliva collection.
2. This requirement shall also be identified in the “Penalty” section of the Presentence Investigation (PSI).
3. Each Probation district shall track the aforesaid collection of DNA.

O. Probationer/Informant Prohibition

1. The 2009 Nebraska Legislature repealed Neb. Rev. Stat. § 29-2262.01 which stated an individual placed on probation by a court of the State of Nebraska shall be prohibited from acting as an undercover agent or employee of any law enforcement agency of the state or any political subdivision.

P. Processing of Investigation Report in the Event of an Appeal

1. In the event of an appeal to a higher court of jurisdiction (District Court, Court of Appeals or the Supreme Court), it shall be necessary that the appellate court receive the investigation report, along with other relevant file material, in order to maintain the integrity of the original record as viewed by judge.
2. When an investigation has been appealed to either the Nebraska Court of Appeals or the Nebraska Supreme Court, that investigation shall be forwarded to those courts electronically as per the Sentence Appeal Protocol.